



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)

## Cover Memo

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**File #:** PH 16-012, **Version:** 1

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**DATE:** March 1, 2016

**TO:** Mayor and City Council

**FROM:** Development Services Director

### **SUBJECT**

Public hearing to consider formation of the Hayward Geologic Hazard Abatement District (GHAD) related to the approved La Vista Development, and appointment of the Hayward GHAD Board of Directors

### **RECOMMENDATION**

Staff recommends that the City Council conducts a public hearing and determines if more than fifty percent of the owners of real property within the La Vista Development object to the formation of the Hayward GHAD; and, if that proves not to be the case, adopts the attached Resolution (Attachment I) forming the Hayward GHAD and appointing City Council members as the Hayward GHAD Board of Directors.

### **BACKGROUND**

In 2005, the Hayward City Council conditionally approved the 179-unit La Vista Development (Tract 7620), with a condition requiring that a Geologic Hazard Abatement District (GHAD) be formed to address on-site geologic hazards associated with the development. State law authorizes GHADs to be formed to prevent, mitigate, abate, or control geologic hazards. GHADs are typically financed by assessing property owners within their boundaries, subject to the restrictions of Proposition 218.

On June 12, 2008, the City Council approved a Development Agreement with La Vista LP. Section 4.5 of the Development Agreement commits the City to “cooperate with owner and take such additional actions as may be reasonably requested by owner to implement this Agreement, including but not limited to, formation of a Geologic Hazard Abatement District (GHAD) necessary to maintain and, if necessary, repair the lands within Parcel A as shown on the Vesting Tentative Map...”

On November 17, 2015, the City Council approved Resolution No. 15-224 (Attachment VI) committing the City of Hayward to be subject to the GHAD law and directed the City Clerk to forward a copy of the resolution to the State Controller, which was done.

On January 26, 2016, a [work session on GHADs <https://hayward.legistar.com/LegislationDetail.aspx?>](https://hayward.legistar.com/LegislationDetail.aspx?)

[ID=2555222&GUID=6795B255-EA43-4E96-9AAB-20AD166E3D94>](#) was held before the City Council, during which staff and consultant Eric Harwell of Engeo Incorporated, provided an overview of GHADs and answered questions from the City Council. Attachment V, which was attached to the staff report for that work session, provides an overview of GHADs.

On February 2, 2016, in response to a petition (Attachment II) filed by the owner of the La Vista development, in accordance with Public Resources Code Sections 26552 and 26554, the Hayward City Council approved Resolution No. 16-016 (Attachment III), which:

1. Approved the scheduling of a Public Hearing for March 1, 2016, to consider formation of the Hayward GHAD.
2. Determined that the health, safety and welfare of the public requires inclusion of the La Vista development territory into a GHAD.
3. Directed the City Clerk to send a written notice of the March 1, 2016 Public Hearing, including a copy of the draft Plan of Control for the La Vista development, to the owner of all property within the La Vista development, the Hayward Area Recreation and Park District (HARD), and to the owners of all properties adjacent to the La Vista Development.

On February 10, 2016, the City Clerk mailed written notice of the March 1, 2016 Public Hearing (Attachment IV), as directed by the City Council.

## **DISCUSSION**

*Public Hearing* - State law requires that a public hearing be held to determine if more than 50% of the property owners within the boundaries of a proposed GHAD formally protest, in writing, the inclusion of their property into a GHAD (Public Resources Code Section 26564). This process is known as the "majority protest" process as outlined in Proposition 218. If more than 50% of the affected property owners file a written protest, the proceedings must be terminated (Public Resources Code Section 26566). Again, there is only one property owner of the property within the boundaries of the proposed GHAD, and that owner filed a petition requesting that a GHAD be formed.

Following any public testimony received by the City Council on March 1, and assuming that no majority protest is made, the City Council may close the public hearing and deliberate on whether or not to create the Hayward GHAD. By law, the City Council must determine within sixty days of the close of the public hearing whether to order formation of the Hayward GHAD (Public Resources Code 26567).

*Appointment of the Hayward GHAD Board of Directors* - If the City Council decides to create the Hayward GHAD, it must then appoint the Hayward GHAD Board of Directors.

According to GHAD law, the City Council members may act as the Board of Directors of the Hayward GHAD or, alternatively, the City Council may appoint five property owners who own property within the GHAD, to serve as the GHAD Board of Directors (Public Resources Code Sections 26567 and 26583). Because there is only one property owner, the Council would be expected to appoint itself as the GHAD Board of Directors if the GHAD is formed. Having a jurisdiction's legislative body members serve as the GHAD Board of Directors is the most common arrangement in previously created GHADs in California.

## **ECONOMIC AND FISCAL IMPACTS**

Formation of the Hayward GHAD will not, by itself, have a direct fiscal or economic impact. However, formation of the Hayward GHAD will allow future consideration of an assessment, to be paid only by buyers of property in the La Vista Development, which will ensure that a non-City funding source is established in perpetuity to fund the maintenance of nearby/adjacent geologic hazards, including slopes and related drainage systems.

## **PUBLIC CONTACT**

Notice of this public hearing was sent to La Vista, LP, to HARD staff, and to adjacent property owners. No responses to such notices have been received.

## **NEXT STEPS**

If the GHAD is formed and the GHAD Board of Directors is appointed, at future meetings, the GHAD Board will need to:

1. Decide how the Hayward GHAD is to be administered; including recruitment/selection of a GHAD Clerk (required by law), GHAD Treasurer (required by law), and possible appointment by the GHAD Board of Directors of other Officers of the District such as GHAD Manager, GHAD legal counsel and GHAD maintenance entity (these positions are not required by law and may be staffed with either current City employees and/or hired consultants);
2. Adopt a resolution formally accepting the Final Plan of Control for the La Vista development once it is completed;
3. Approve an Intent to Order an Assessment for the GHAD parcels;
4. Approve the Engineer's Report and Notice to Order an Assessment of the parcels in the Hayward GHAD;
5. Hold a public hearing to complete the Proposition 218 election process for adopting a new GHAD assessment for the GHAD parcels; and
6. Approve a yearly budget for the Hayward GHAD (after the GHAD accepts monitoring, maintenance and ownership responsibilities).

Prepared by: Peter Rei, PE, PLS Contract Development Review Engineer

Reviewed by: Sara Buizer, AICP, Planning Manager

*Recommended by:* David Rizk, Development Services Director

Approved by:



Fran David, City Manager

Attachments:

- Attachment I      Resolution to form Hayward GHAD and Appoint Council Members as the Hayward GHAD Board of Directors
- Attachment II     Petition from La Vista developer to form Hayward GHAD
  - Exhibit A - GHAD Plat
  - Exhibit B - Draft GHAD Legal Description
  - Exhibit C - Draft GHAD Plan of Control
- Attachment III    Resolution No. 16-016
- Attachment IV    Notice of March 1, 2016 Public Hearing
- Attachment V     Geologic Hazard Abatement Districts handout
- Attachment VI    Resolution No. 15-224